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OFFICE OF PETITIONS

In re Application of :
Abdalla Aly Naem :
Application No. 10/821,501 : DECISION GRANTING PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 100-15121 (P04976- :
P01-D01-F1)

This is a decision on the petition, filed September 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The petition to withdraw from issue was accompanied by a "Request and Certification under 35 U.S.C. 122(b)(2)(B)(i)." However, the filing of this request was unnecessary since this application was filed with a request for nonpublication. The filing of an RCE is not the filing of a new application and, therefore, the submission of a request for nonpublication is improper. Accordingly, the nonpublication request filed with the petition will not be recognized.

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions